UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

CLCS

COMMISSION ON THE LIMITS OF THE CONTINENTAL SHELF

Distr.
GENERAL

CLCS/4
17 September 1997

ORIGINAL: ENGLISH

Second session
New York, 2-12 September 1997

STATEMENT BY THE CHAIRMAN OF THE COMMISSION ON THE LIMITS OF THE CONTINENTAL SHELF ON THE PROGRESS OF WORK IN THE COMMISSION

1. The second session of the Commission on the Limits of the Continental Shelf was held at United Nations Headquarters, New York, from 2 to 12 September 1997. The Commission held a total of 17 meetings.

2. The following 17 members of the Commission attended the session: Mr. Alexandre Tagore Medeiros de Albuquerque, Mr. Osvaldo Pedro Astiz, Mr. Samuel Sona Betah, Mr. Harald Brekke, Mr. Galo Carrera Hurtado, Mr. Peter F. Croker, Mr. Noel Newton St. Claver Francis, Mr. Kazuchika Hamuro, Mr. A. Bakar Jaafar, Mr. Mladen Juračić, Mr. Yuri Borisovitch Kazmin, Mr. Iain C. Lamont, Mr. Wenzheng Lu, Mr. Chisengu Leo Mdala, Mr. Yong Ahn Park, Mr. Daniel Rio and Mr. Krishna-Swami Ramachandran Srinivasan. Four members of the Commission were unable to attend the session.

3. The Commission had before it the following documents: provisional agenda (CLCS/L.2) which after it was adopted was reissued (CLCS/2); draft rules of procedure of the Commission (CLCS/WP.1); and a study prepared by the Secretariat on the functions and scientific and technical needs of the Commission in assessing the submission of a coastal State (SPLOS/CLCS/INF/1).

4. The meeting was opened by the Chairman, Mr. Yuri Borisovitch Kazmin. In his opening statement, the Chairman proposed that the Commission first take up the consideration of those draft rules of procedure that had not been adopted at the last session, namely rules 1 to 3, 5, 9, 13, 18 to 23, 31, 33, 34, 36, 40, 41, 44, 45, 48, 50, 51, 54 and 55, with a view to adopting them. He proposed that after their consideration, the Commission would adopt the complete set of its rules of procedure.

5. He also stated that after the adoption of the rules of procedure the Commission would consider the study prepared by the Secretariat on the functions

and scientific and technical needs of the Commission in assessing the submission of a coastal State (SPLOS/CLCS/INF/1).

6. After considering the rules not yet adopted at the first session, the Commission approved them with the amendments proposed. However, the following rules required further consideration by the Commission: rule 40 dealing with the composition of a subcommission to consider a submission by a coastal State; rule 44 dealing with the question of delimitation of boundaries between States with opposite or adjacent coasts; and the set of draft rules 49 to 53 dealing with the issue of confidentiality and protection from possible financial liability of members of the Commission arising from potential allegation of breaches of the rules of confidentiality.

7. The Commission decided to set up an open-ended working group to deal with the question of confidentiality and the composition of the subcommissions to deal with a submission. The working group was chaired by Mr. Galo Carrera. It was decided that the working group would draft appropriate provisions to be included in the draft rules of procedure on the basis of proposals and suggestions submitted by members of the Commission and taking into account the general trend of the discussions in the Commission.

8. On the question of delimitation of boundaries between States with opposite or adjacent coasts (rule 44), it was decided that the Chairman would undertake consultations among members and submit a draft rule to the Commission for its consideration.

9. As a result of the consultations on rule 44, a compromise text was agreed upon. It would deal with a submission by a coastal State which might involve a dispute between States with opposite or adjacent coasts or other cases of unresolved land or maritime disputes. The redrafted text is reflected in the rules and an annex setting out detailed procedures on this issue was also agreed upon and is included in the document as annex I.

10. The working group, which was set up to deal with the two other outstanding issues in the rules of procedure recommended to the Commission an amendment to paragraph 2 of rule 54 dealing with the consideration of the submission and decided to include rules 49 to 52 dealing with the issue of confidentiality and privileges and immunities of members of the Commission in an annex. The Commission approved the recommendations of the working group. It then decided to adopt all the rules of procedure, including amendments to rule 54, and agreed with the proposed text of annex II.

11. Concerning the annexes attached to the rules, the Commission decided that annex I would be adopted only after it had been considered by the Meeting of States Parties. With respect to annex II, the Commission decided that it would only be adopted if and when the issue of the privileges and immunities of its members, in dealing with confidential material and in the exercise of all their other functions, was resolved positively. In this regard, the Chairman was requested to transmit the two annexes to the Meeting of States Parties through its President, and if possible, to attend the Meeting of States Parties to present these issues.

12. In addition, the Commission decided to submit the following issues to the Meeting of States Parties for clarification and/or possible recommendation:

(a) In the light of article 4 of annex II to the Convention, do the terms "a coastal State" and "a State" include a non-State party to the Convention, or do they only refer to a coastal State or a State which is a State Party to the Convention? This clarification, in the view of the Commission, is necessary for the application of rule 43 of the rules of procedure;

(b) In the light of rule 49 and annex II to the rules of procedure dealing with the question of confidentiality, and since the Convention does not provide for privileges and immunities for the members of the Commission, how would such members be protected from possible financial liability resulting from potential allegations of breaches of the rules on confidentiality? The Commission felt that some provision would have to be made giving members immunity from any legal process in the performance of their functions if they were called upon to deal with confidential or proprietary data. In this connection, the Commission formulated the above-mentioned annex II with a view to addressing this matter;

(c) The Commission would request the Meeting of States Parties to consider a recommendation for the establishment of a trust fund to be administered by the Secretary-General of the United Nations. Such a fund would be used to meet the travel and accommodation expenses of members of the Commission from developing countries.

13. The Commission decided to draft a new rule 56 dealing with the adoption of other regulations and guidelines and annexes to the rules of procedure. The rule provides, inter alia, that the annexes form an integral part of the rules and a reference to the rules or any part thereof includes a reference to the annexes relating thereto.

14. The Commission took up the consideration of the study prepared by the Secretariat on the functions and scientific and technical needs of the Commission in assessing the submission of a coastal State (SPLOS/CLCS/INF/1). It was decided that two documents should emanate from the study:

(a) Modus operandi which would deal with the internal functioning of the Commission;

(b) The technical guidelines with respect to the data and information to be included in the submission by a coastal State.

15. The Commission decided to consider the provisions of the modus operandi. After a general discussion, it established an open-ended working group chaired by Mr. Galo Carrera to deal with the matter and to draft appropriate provisions accordingly. The working group organized itself into three sub-groups, chaired by Mr. Croker, Mr. Jaafar and Mr. Rio, to deal with different aspects of the modus operandi of the Commission. The conclusions of the sub-groups were combined by the working group into a single document which was presented to the Commission. The provisions recommended by the working group were adopted by the Commission and are contained in document CLCS/L.3.

16. The Commission also decided to set up six working groups to deal with the technical guidelines with respect to the data and information to be included in the submission by a coastal State. Four of the six working groups were to deal with specific subject areas and two would work on interdisciplinary problems arising from the application of article 76 of the Convention. The Commission further decided that each group would undertake some work during the inter-sessional period. After consultations among the members, the groups were composed of the following members: (a) Working group on hydrography: Messrs Albuquerque, Astiz, Carrera, Francis, Lamont and Srinivasan, with Mr. Rio as an alternate member. The chairperson of the group is Mr. Srinivasan; (b) Working group on geodesy: Messrs Albuquerque, Astiz, Brekke, Carrera, Francis, Hamuro, Jaafar, Mdala and Mr. Srinivasan, with Mr. Rio as an alternate member. Mr. Carrera is the chairperson of the group; (c) Working group on geology: Messrs Betah, Brekke, Hamuro, Juračić, Kazmin, Lu, Mdala and Srinivasan, with Mr. Park as chairperson. The alternate member is Mr. Carrera; (d) Working group on geophysics: Messrs L. F. Awosika, Carrera, Croker, Karl H. F. Hinz, Lu, Mdala and Park, with Mr. Francis as the alternate member and Mr. Croker as the chairperson of the group; (e) Working group on the outer edge of the continental margin: Messrs Albuquerque, Astiz, Betah, Brekke, Carrera, Croker, Hamuro, Juračić, Kazmin, Lu, Mdala and Park. The alternate members are Messrs Francis, Lamont and Srinivasan, with Mr. Brekke as chairperson of the group; (f) Working group on the foot of the continental slope: Messrs Carrera, Francis, Hamuro, Kazmin, Lamont, Rio and Srinivasan, with Mr. Rio as chairperson.

17. The Commission also decided that other working groups as well as a coordinating working group might be established at its next session.

18. A proposal was introduced by a member of the Commission for the creation of a training committee of the Commission, which would provide advice to countries requiring assistance in the preparation of submissions to the Commission. It was agreed that the proposal would be discussed at the next session of the Commission.

19. During the session, the Commission requested the Legal Counsel to advise it as to whether article VI of the Convention on the Privileges and Immunities of the United Nations could apply to the members as experts on mission for the United Nations and whether the definitions of "coastal State" and "State" in accordance with article 4 of annex II to the Law of the Sea Convention included coastal States and States not parties to the Convention. The Legal Counsel, in addressing the Commission on these two issues, stated that the views he was expressing were very preliminary and that further detailed research would be required before the requested advice could be provided.

20. Based on the statement of the Legal Counsel, the Commission decided that article VI of the Convention on the Privileges and Immunities of the United Nations shall apply mutatis mutandis to the members of the Commission, as experts on mission for the United Nations. It also decided to request the Legal Counsel to provide it with a formal legal opinion as to the applicability of the above-mentioned Convention to the members of the Commission.

21. The Commission furthermore decided that certain documents of the Commission should be published in the six official languages of the United Nations and also decided to hold its third session for a period of two weeks from 4 to 15 May 1998, and the fourth session for a period of one week from 31 August to 4 September 1998. Since the Commission is dealing with important technical issues of great significance to States, the Chairman requested the States having members in the Commission to send them to the meetings of the Commission with adequate budgetary support.

22. The members of the Commission expressed their deep appreciation to the Chairman for the excellent manner in which he had steered the proceedings of this session.

23. The Chairman expressed his appreciation to all the members of the Commission for the frank and open manner in which the discussions had been held, as well as for their cooperation in the constructive work carried out during the session. The Commission expressed its appreciation to Mr. Hans Corell and the staff of the Division for Ocean Affairs and the Law of the Sea for the preparation of the documents of the Commission and for their assistance during the session as well as other staff, including the interpreters, who contributed to the servicing of the second session of the Commission.